IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 17TH OCTOBER 2007 / 25TH ASWINA 1929

Crl.MC.No. 5716 of 2003(D)

CC.1295/2001 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOCHI

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PETITIONER: ACCUSED:

JOYCEE CATERERS AND FOOD SUPPLIERS (P) LTD., REPRESENTED BY DIRECTOR JOE.C.VATTUCHERIL, T.K.ROAD, MANJERI, THIRUVALLA.

BY ADV. SRI.PIRAPPANCODE V.S.SUDHIR

RESPONDENTS: COMPLAINANT & STATE:

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1. M/S. GUJARAT LEASE FINANCING LTD., MANNANCHERIL BUILDINGS, KUNNATHODATHU LANE, VALANJAMBALAM BRANCH, ERNAKULAM, REPRESENTED BY ITS BRANCH MANAGER SHRI.RAJEEV P.R.

2. STATE OF KERALA - REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY ADV. SRI.VARGHESE C.KURIAKOSE

R2 BY PUBLIC PROSECUTOR MR. C.K. SURESH

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 17/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

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CRL.M.C.NO. 5716 OF 2003

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DATED THIS THE 17TH OCTOBER 2007

ORDER

The petitioner is the accused in C.C.No. 1295/2001 of the Court of Chief Judicial Magistrate Court, Ernakulam with respect to the offence under Section 138 of the Negotiable Instruments Act initiated by the first respondent,Finance Company. It is contended that the blank cheque leaves entrusted at the time of execution of the agreement have been presented, when an instalment fell due. It is the case of the petitioner/accused that substantial amounts have been paid and that the impugned cheques did not represent the amounts due to the respondent. It is submitted that the first respondent-Company has instituted a civil suit vide Annexure-D in the City Civil Court at Ahmedabad for the entire amount due and that the same is pending and hence the petitioner has sought for getting the proceedings in the court of Chief Judicial Magistrate stayed till the disposal of the Summary Civil Suit No.1091/2002 in the City Civil Court at Ahmedabad.

No details as to the stage of the proceedings have been furnished herein. I find that the petitioner can very well apply before the court below for the above relief resorting to Section 309 Cr.P.C. Hence, the Crl.M.C. is dismissed.

Sd/-
K.R.UDAYABHANU, JUDGE

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